

Message Text

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AID-05 CEA-01 CIAE-00 CIEP-02 COME-00 DODE-00 FPC-01

H-02 INR-07 INT-05 NSAE-00 NSC-05 OMB-01 PM-03

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TO USMISSION OECD PARIS IMMEDIATE

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E.O. 11652: N/A

TAGS: ENRG, OECD

SUBJ: A POLICY ON DISAPPROVING PLANS OR ACTIONS TO
VOLUNTARY AGREEMENT

OECD FOR GERALD ROSEN

FOLLOWING DECLARATION IS AUTHORIZED FOR SUBMISSION TO IEA
GOVERNING BOARD:

QTE WE HAVE BEEN ASKED ABOUT THE CONDITIONS UNDER WHICH
PRINCIPLES/PLANS OR ACTIONS DEVELOPED OR CONTEMPLATED PUR-
SUANT TO THE VOLUNTARY AGREEMENT AND PROGRAM RELATING
TO THE INTERNATIONAL ENERGY PROGRAM MIGHT BE DISAPPROVED
BY THE ADMINISTRATOR OF THE FEDERAL ENERGY AGENCY OR BY
THE ATTORNEY GENERAL. CERTAIN SAFEGUARDS, INCLUDING THE
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POSSIBILITY OF DISAPPROVAL PROVIDED IN SECTION 6D, ARE

CONSIDERED NECESSARY BECAUSE THE VOLUNTARY AGREEMENT PROVIDES IMMUNITY IN ADVANCE FROM THE U.S. ANTITRUST LAWS. IT IS NECESSARY TO ENSURE THAT THE IMMUNITY WILL BE USED TO IMPLEMENT THE IEP AND NOT FOR PRIVATE PURPOSES.

QTE OUR COMMENTS, WHICH RELATE TO THE OPERATION OF THE VOLUNTARY AGREEMENT ITSELF, OF COURSE ASSUME THE CONTINUATION OF THE DEFENSE PRODUCTION ACT OR EQUIVALENT LEGISLATION AND THE STATUTORY FINDINGS MADE THEREUNDER. (THE DEFENSE PRODUCTION ACT, UNDER WHICH THE VOLUNTARY AGREEMENT

IS ESTABLISHED, AUTHORIZES WITHDRAWAL OF THE REQUEST OR FINDING BY THE PRESIDENT OR HIS DELEGATE IN THE EVENT THAT THE VOLUNTARY AGREEMENT AND PROGRAM NO LONGER FURTHERS THE OBJECTIVES SET FORTH IN THE DEFENSE PRODUCTION ACT.)

QTE ANY DISAPPROVAL OF PRINCIPLES/PLANS OR ACTIONS WOULD BE BASED ON THE GROUNDS THAT SUCH PRINCIPLES/PLANS OR ACTIONS WERE UNNECESSARILY ANTICOMPETITIVE, THAT IS, THAT THE RESULTS REQUIRED BY THE IEP COULD BE ACHIEVED IN WAYS WHICH WOULD BE MORE CONSISTENT WITH THE COMPETITION POLICY ESTABLISHED BY THE U.S. ANTITRUST LAWS. THIS WOULD INCLUDE THE GROUND THAT THE PRINCIPLES/PLANS FAILED TO INCORPORATE ADEQUATE INTERNAL SAFEGUARDS TO INSURE AGAINST UNNECESSARILY ANTICOMPETITIVE ACTIONS.

QTE THE VOLUNTARY AGREEMENT ITSELF INDICATES IN SECTION 4 THAT IT IS INTENDED TO FACILITATE IMPLEMENTATION OF THE IEP BUT DOES NOT IN ANY WAY AFFECT THE OBLIGATIONS AND RIGHTS OF THE UNITED STATES AS A PARTY TO THE IEP.

QTE IN CASE OF ANY DISAPPROVAL OF PRINCIPLES/PLANS OR ACTIONS, THE U.S. WOULD STILL HAVE THE OBLIGATION TO ENSURE THAT ITS ALLOCATION OBLIGATIONS PURSUANT TO THE IEP ARE MET. UNQTE INGERSOLL

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